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EXAMINER

PLUMMER, ELIZABETH A

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/748,852
Filing Date: December 31, 2003
Appellant(s): STANCHFIELD, OLIVER O.

Thomas. P Pavelko
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 28 December 2009 appealing from the Office action mailed 28 July 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct. Note that the typographical error the Appellant has referred to has been clarified in the rejection below.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

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5,711,123	LAMONT ET AL.	1-1998
2004/0060251	PAMPLIN	4-2004
GB 2,141,457 A	SUMNER	12-1984
GB 2,096,665 A	FORD	10-1982

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 2, 5, 7, 10, 12, 13, 25, and 31 rejected under 35 U.S.C. 103(a) as being unpatentable over Pamplin (US Publication 2004/0060251) in view of Kornfalt et al. (US Patent 6,517,935).

Regarding claim 4, Pamplin discloses a wood-based reversible molding (paragraph 27) (26) comprising a core (Fig. 3), said core being shaped as a wall base molding, said shaped core having a plurality of decorative faces (34) affixed to the core (page 3, paragraph 32) wherein at least two of said faces differ in at least one property selected from the group consisting of texture, design, pattern and color (page 3, paragraph 32), wherein said faces have the same shape (Fig. 2,3,4) and each of the faces can be covered with a laminate of wallpaper (Fig. 3; page 2, paragraph 32) and orientation of the core against a

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wall will expose at least one but not two of said faces, wherein at least one decorative faces comprise a printed decor paper (page 2, paragraph 31). While Pamplin does not disclose that the paper is covered with an overlay of a-cellulose, it is notoriously well known in the art that a printed décor paper can comprise an overlay of a-cellulose. For example, Kornfalt et al. teaches a molding with décor paper having an overlay of a-cellulose in order to protect the molding from abrasion (column 2, lines 9-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pamplin to include an overlay of a-cellulose, such as taught by Kornfalt et al., in order to better protect the molding.

Regarding claim 2, Pamplin in view of Kornfalt et al. discloses the invention as claimed except for the molding comprises a wood product selected from the group consisting of particle board, MDF, HDF and veneered lumber. However, it would have been a matter of obvious design choice to form the molding out of a wood product such as particle board, MDF, HDF or veneered lumber, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Regarding claim 5, at least one decorative face comprises a laminate (Fig. 3; page 2, paragraph 32).

Regarding claim 7, each of said faces is in the shape of a wall base molding (paragraph 27).

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Regarding claim 10, Pamplin discloses that the molding can be used anywhere on a wall, which inherently includes along a floor and wall joint (paragraph 27).

Regarding claim 12, Pamplin in view of Kornfalt et al. discloses the invention as claimed except for the floor being a laminate floor. However, it would have been a matter of obvious design choice to form the floor out of a laminate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Regarding claim 13, Pamplin in view of Kornfalt et al. discloses the invention as claimed except for the wall comprising a laminate wall panel. However, it would have been a matter of obvious design choice to form the wall panel out of a laminate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Regarding claim 25, Pamplin in view of Kornfalt et al. discloses the invention as claimed except for the molding wood based core comprises a material selected from the group consisting of natural wood and veneered lumber. However, it would have been a matter of obvious design choice to form the core out of a natural wood or veneered lumber, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

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Regarding claim 26, each of said faces can differ from each other of said faces (page 3, paragraph 32).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pamplin (US Publication 2004/0060251) in view of Kornfalt et al. (US Patent 6,517,935) as applied to claim 4 above, and further in view of Lamont et al. (US Patent 5,711,123).

Regarding claim 3, Pamplin in view of Kornfalt et al. discloses the invention as claimed except for each decorative face comprising a curved surface. However, it is well known in the art that moldings can comprise a curved surface. For example, Lamont et al. teaches a molding (4) having a plurality of decorative faces each having the same shape (Fig. 3; column 4, lines 1-30), wherein orientation of the molding against a wall will expose at least one but not two of said faces and each of the decorative faces can comprise a curved surface (Fig. 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pamplin in view of Kornfalt et al. to have the decorative faces comprise a curved surface, such as taught by Lamont et al., in order to create a more decorative design. Furthermore, it would have been a matter of obvious design choice to form the faces as comprising curved surfaces, as such a modification would have involved a mere change in shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1966).

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Claims 4, 8 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sumner (GB 2,141,457 A) in view of Pamplin (US Publication 2004.0060251) and Kornfalt et al. (US Patent 6,517,935).

Regarding claim 4, Sumner discloses a reversible molding (12) having a plurality of decorative faces (left side, right side), wherein the faces have the same shape (Fig. 1) and the molding can be oriented against a wall to expose at least one but not two of said faces. While Sumner does not specifically disclose that the molding is a wood-based molding with a wood-based core, and the plurality of decorative faces are affixed to a core and differ by texture, design, pattern or color and independently comprise foil, laminate, veneer, paint, stain or clear protective material and wherein at least one of the decorative faces comprise a printed décor paper with an overlay of a-cellulose, it is notoriously well known in the art that a molding can comprise a wood-based core with multiple faces that can have that a plurality of decorative faces which differ by texture, design, pattern or color and independently comprise foil, laminate, veneer, paint, stain or clear protective material affixed to the core, wherein at least one of the decorative faces comprise a printed décor paper with an overlay of a-cellulose. For example, Pamplin discloses a reversible molding (26) having a wood-based core (paragraph 27), a plurality of decorative faces (34) affixed to the core, wherein at least two of said faces differ in at least one property selected from the group consisting of texture, design, pattern and color (page 3, paragraph 32), wherein said faces have the same shape (Fig. 2,3,4) and each of the faces can

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be covered with a laminate of wallpaper (Fig. 3; page 2, paragraph 32) in order to create multiple decorative designs, and at least one of the decorative faces comprise a printed décor paper (page 2, paragraph 31). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sumner to have a molding comprising a wood-based core with at least two of the faces affixed to the core, the faces differing in at least one property selected from texture, design, pattern and color, wherein each of the faces independently comprises foil, laminate, veneer, paint, stain or clear protective material, such as taught by Pamplin, in order to create more decorative designs. Furthermore, while Sumner in view of Pamplin is silent on whether an overlay of a-cellulose is on the printed decor paper, it is notoriously well known in the art that a printed décor paper can comprise an overlay of a-cellulose. For example, Kornfalt et al. teaches a molding with décor paper having an overlay of a-cellulose in order to protect the molding from abrasion (column 2, lines 9-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sumner in view Pamplin to include an overlay of a-cellulose, such as taught by Kornfalt et al., in order to better protect the molding. Regarding claim 8, each of said faces is in the form of a base shoe (Fig. 1). Regarding claim 30, Sumner in view of Pamplin teaches the invention as claimed except for each of the faces being in the form of a quarter round. However, It would have been a matter of obvious design choice each face as a quarter round, as such a modification would have involved a mere change in shape of a

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component. A change in shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1966).

Claims 20, 27 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pamplin (US Publication 2004/0060251).

Regarding claim 20, Pamplin discloses a method of inherently reducing molding inventories comprising offering a wall base molding comprising a plurality of decorative faces (34) affixed to the wood-based core (paragraph 27) of the molding such that rotation of the core (flipping it over) will expose at least one of the decorative faces wherein at least two of said faces differ in at least one property, including texture, design, pattern and color (page 3, paragraph 32), and each of said faces independently comprises a laminate (Fig. 3; page 2, paragraph 32). While Pamplin does not disclose that the molding is necessarily offered to a purchaser of wall base, shoe or quarter round molding inventories and then sold to the purchaser, it is notoriously well known in the art the moldings can be sold to a purchaser of molding inventories.

Regarding claim 27, Pamplin discloses the invention as claimed except for the molding wood based core comprises a material selected from the group consisting of natural wood and veneered lumber. However, it would have been a matter of obvious design choice to form the core out of a natural wood or veneered lumber, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

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Regarding claim 33, each of said faces can differ from each other of said faces (page 3, paragraph 32).

Claims 14-16, 20-24, 26, 28, 29 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ford (GB 2,096,665 A) in view of Pamplin (US Publication 2004/0060251).

Regarding claim 14, Ford discloses a reversible wall base molding (5) having a plurality of faces (left side, right side) (abstract) wherein at least two of said faces different in shape (abstract; Fig. 2,4), and wherein when the molding is oriented against a wall at least one but not two of the faces will be exposed. Ford does not disclose that the faces are affixed to a wood-based core and also differ in at least one additional property consisting of texture, design, pattern and color, and each of the faces independently comprise foil, paint, clear protective material, stain, laminate or veneer. However, it is notoriously well known in the art that a reversible molding can have faces which are affixed to a wood-based core and differ in texture, design, pattern, or color, the faces comprising foil, paint, clear protective material, stain, laminate or veneer. For example, Pamplin teaches a reversible molding (26) having a plurality of decorative faces (34) affixed to a wood-based core (paragraph 27), wherein at least two of the faces differ in texture, design, pattern and color (page 3, paragraph 32) and comprise a laminate (Fig. 3; page 2, paragraph 32), in order to create more aesthetically pleasing designs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ford to include faces differing in

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texture, design, pattern or color and comprising a laminate, such as taught by Pamplin, in order to create more varied and pleasing molding designs.

Regarding claim 15, Ford in view of Pamplin discloses the invention as claimed except for the core of the reversible molding comprising particle board, MDF or HDF. However, it would have been a matter of obvious design choice to form the core of the molding out of a wood product such as particle board, MDF, or HDF, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Regarding claims 16 and 21, Ford in view of Pamplin discloses the invention as claimed except for each of the faces comprising a foil. However, it would have been a matter of obvious design choice to form the faces comprising foil, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Regarding claim 20, Ford discloses a method of inherently reducing molding inventories comprising offering a molding comprising a plurality of decorative faces (28). Ford does not disclose that at least two of said faces differ in at least one property, including texture, design, pattern and color (page 3, paragraph 32), and each of said faces independently comprises a laminate (Fig. 3; page 2, paragraph 32) and the core is wood-based. However, it is notoriously well known in the art that a reversible molding can have faces which differ in texture, design,

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pattern, or color, the faces independently comprising foil, paint, clear protective material, stain, laminate or veneer and a wood-based core. For example, Pamplin teaches a reversible molding (26) having a plurality of decorative faces (28) wherein at least two of the faces differ in texture, design, pattern and color (page 3, paragraph 32) and comprise a laminate (Fig. 3; page 2, paragraph 32) and a wood based core (paragraph 27), in order to create more aesthetically pleasing designs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ford to include faces differing in texture, design, pattern or color and comprising a laminate and a wood-based core, such as taught by Pamplin, in order to create more varied and pleasing molding designs. While Ford also does not disclose that the molding is offered to a purchaser of molding inventories and then sold to the purchaser, it is notoriously well known in the art the moldings can be sold to a purchaser of molding inventories.

Regarding claim 22, Ford further discloses at least one face is in the shape of a wall base molding (Fig. 2,4).

Regarding claims 23 and 24, Ford in view of Pamplin discloses the invention as claimed except for one of the faces being in the shape of a quarter round or base shoe. However, It would have been a matter of obvious design choice at least one face as a quarter round or base shoe, as such a modification would have involved a mere change in shape of a component. A change in shape is

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generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1966).

Regarding claim 26, Ford in view of Pamplin discloses the invention as claimed except for the core of the reversible molding comprising natural wood or veneered lumber. However, it would have been a matter of obvious design choice to form the core of the molding out of natural wood or veneered lumber, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Regarding claim 28, at least one face comprises a curved surface (Fig. 2,4).

Regarding claim 29, Ford further discloses that the at least one of the plurality of decorative surfaces comprises a curved surface (Fig. 2,4).

Regarding claim 32, each of said faces differs from each other of said faces (Fig. 2,4).

(10) Response to Argument

Appellant's arguments filed 28 December 2009 have been fully considered but they are not persuasive. On page 5, Appellant alleges that Pamplin only discloses a mounting strip, rather than a molding. However, the "mounting strip" 26 is not only apart of the entire molding assembly, but can be considered a molding in and of itself, as a molding is merely any of various long, narrow ornamental surfaces. Calling the strip 26 a mounting strip versus a molding is merely a matter of nomenclature.

Furthermore, concerning the argument on page 5 and 6 that the molding is not wood

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based, Pamplin teaches that the entire molding assembly can be wood based (paragraph 27) and even specially teaches that molding, or “mounting strip”, 26 can in particular be formed of “commercially available lumber” (paragraph 31); products which are formed of lumber are inherently wood based products. Regarding the argument that Pamplin does not teach a wall base molding, a wall based molding is merely a molding that can be used at the bottom of a wall. The molding of Pamplin can be used at any location on a wall, including at the wall’s base. In addition, claim 4 is directed to the molding itself, not a molding in combination with a wall, so the position of the molding on the wall is moot. In addition, claim 4 reads “shaped as a wall base molding”, and while wall base moldings can have many different shapes, many wall base moldings have a substantially rectangular shape (for example, see molding 11 in Sumner). Regarding the argument that claim 3 is not properly rejected because of deficiencies in Pamplin, the deficiencies in Pamplin are rebutted above. Regarding the argument on page 9 that Sumner does not disclose a reversible molding, Sumner discloses a molding which can be removed. The molding is capable of being used with either face, or side, facing the room. Furthermore, Sumner is modified in view of Pamplin. As explained above, Pamplin does in fact disclose a wood based core, as Pamplin teaches the molding 26 can be formed of lumber (paragraph 31). Furthermore, regarding the argument on page 10 that Pamplin does not teach a rotation of the wood-based core to expose decorative faces, Pamplin specifically teaches that a different decorative pattern can be provided on each side (paragraph 33). In order to expose the second of the two decorative faces, the molding 26 would have to be rotated to the other side.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Elizabeth A. Plummer/

Examiner, Art Unit 3635

/Richard E. Chilcot, Jr./

Supervisory Patent Examiner, Art Unit 3635

Conferees:

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